

UNITED STATES COURT OF APPEALS

Filed 10/9/96

TENTH CIRCUIT

RONALD DEAN TUCKER,

Plaintiff - Appellant,

and

BOBBERT S. COOK and BRIAN A.
WALKER,

Plaintiffs,

v.

HARVEY COUNTY DETENTION,

Defendant - Appellee.

No. 96-3020
(D. Ct. No. 95-CV-3493)
(D. Kan.)

ORDER AND JUDGMENT*

Before TACHA, BALDOCK, and BRISCOE, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

This action was brought pursuant to 42 U.S.C. § 1983 by current and former inmates of the Harvey County Jail in Newton, Kansas. In their pro se complaint, these plaintiffs allege a series of violations of their constitutional rights because of conditions of confinement in the Harvey County Jail. The district court determined that none of plaintiffs' allegations rise to the level of alleging unconstitutional conditions in the Harvey County Jail. The district court further found that plaintiffs' allegations on appeal are legally frivolous and are not taken in good faith pursuant to 28 U.S.C. § 1915(d).

On appeal here, plaintiffs' seek in forma pauperis status and renew their allegations regarding substandard meals, lack of privacy, lack of sufficient exercise, and various other conditions in the Harvey County facility. Plaintiffs allege that the district court erred in finding that their complaint failed to state a claim and reiterate their allegations that they have been denied their constitutional rights because of the conditions to which they are allegedly subjected in Harvey County Jail. Construing liberally the pro se plaintiffs' complaint and allegations on appeal, we agree with the district court that plaintiffs have failed to allege any constitutional violations and that this appeal is legally frivolous. We therefore DISMISS this appeal as frivolous and DENY leave to proceed in forma pauperis on appeal.

The mandate shall issue forthwith.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge